

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

**UNITED STATES OF AMERICA,
Plaintiff**

VS.

CASE. NO.: 03-99-CR-198-001(PG)

**DAVID PAGAN-AVILA
AKA: DAVID REYES-RIVERA
Defendant**

**MOTION REQUESTING THE WITHDRAWAL
OF MOTION FILED ON April 4, 2006**

TO THE HONORABLE JUAN M. PEREZ-GIMENEZ
SENIOR U.S. DISTRICT JUDGE
DISTRICT OF PUERTO RICO

COMES NOW, JEFFREY SEMIDEY-ACOSTA, U.S. PROBATION OFFICER of this Court, presenting an official report on the conduct and attitude of releasee, David Pagán-Avila, who on July 21, 2000, was sentenced by Your Honor, to seventy (70) months of imprisonment to be followed by an eight (8) year supervised release term, after he pleaded guilty of violating Title 21 U.S.C. Sections 846 and 841(a)(1). As special conditions, he was ordered to participate in a drug treatment program, as directed by the probation officer, submit to urinalysis, and provide financial information upon request. A \$100.00 Special Monetary Assessment was also imposed. On September 18, 2004, Mr. Pagán-Avila was released to supervision. On April 4, 2006, a motion was filed requesting a warrant for the offender's arrest based on new criminal conduct. On April 13, 2006, a warrant was issued.

In July 2006, Mr. Pagán-Avila was arrested by local authorities based on criminal charges related to charges of two counts of violating Article 5.06, of the Puerto Rico, Firearms Law and one count for murder, Article 106, of the Puerto Rico Penal Code. However, on September 19, 2006, the Superior Court, Caguas during a preliminary hearing found no probable cause. Furthermore a letter was received from District Attorney Yamil Juarbe-Molina informing that after re-investigating the case it was determined that the offender was not involved in the case as he had been charged. However, Mr. Pagán-Avila is interested in cooperating with the Caguas Attorney's Office. The offender was transferred to the Metropolitan Detention Center on September 28, 2006. A final revocation hearing has not been held as of this date.

After carefully reviewing the case, and considering that the offender has been incarcerated for almost five (5) months and the fact that it was proven that he was wrongfully indicted, it is believed that there has been enough punishment for the offender.

WHEREFORE, in lieu of the aforementioned, is respectfully requested that the Court withdraw the motion filed by the U.S. Probation Office on April 4, 2006, and that he be released and allowed to participate in the State Witness Protection Program.

In San Juan, Puerto Rico, this 27th day of November 2006

Respectfully submitted,

s/Jeffrey Semidey-Acosta

Jeffrey Semidey-Acosta

U.S. Probation Officer

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CERTIFICATE OF SERVICE

I HEREBY CERTIFIED that on November 27th, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which send notification of such filing to the following: Assistant U.S. Attorney Myriam Y. Fernández-González and Robert Millan, Esq.

At San Juan, Puerto Rico, this 27th day of November 2006.

Respectfully submitted,

s/Jeffrey Semidey-Acosta
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